

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ANDRE LEROY GARRETT, ID # 829874,	)	
Petitioner,	)	
vs.	)	No. 3:08-CV-0129-L
	)	ECF
NATHANIEL QUARTERMAN, Director,	)	
Texas Department of Criminal	)	
Justice, Correctional Institutions Division,	)	
Respondent.	)	

RECOMMENDATION REGARDING CERTIFICATE OF APPEALABILITY

A Notice of Appeal has been filed in the above captioned action in which:

- (X) the District Court has entered a final order in a habeas corpus proceeding brought pursuant to 28 U.S.C. § 2254.

Pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253(c), the undersigned Magistrate Judge recommends as follows:

IFP STATUS:

- (X) the party appealing should be GRANTED *in forma pauperis* status on appeal.

COA:

- ( ) a Certificate of Appealability should be GRANTED. (See issues set forth below).  
(X) a Certificate of Appealability should be DENIED. (See reasons stated below).

**REASONS FOR DENIAL:** For the reasons stated in the Findings, Conclusions and Recommendation of the United States Magistrate Judge, filed on March 5, 2008, which were accepted by the District Court on May 22, 2008, the habeas corpus petition is a successive petition. See 28 U.S.C. § 2244(b); *Crone v. Cockrell*, 324 F.3d 833, 836-37 (5th Cir. 2003). Petitioner has failed to show that reasonable jurists would find it debatable whether the Court was correct in dismissing his successive petition pending review by a three-judge panel of the Fifth Circuit Court of Appeals. See *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); 28 U.S.C. § 2253(c)(2).

DATED this 28th of July, 2008.

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IRMA CARRILLO RAMIREZ  
UNITED STATES MAGISTRATE JUDGE